IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2608 OF 2006

WITH

NOTICE OF MOTION NO.2609 OF 2006

IN

ARBITRATION PETITION (L) NO.584 OF 2005

Nitiraj Engineer Pvt.Ltd. ...Petitioners

v/s

M/s Gati Ltd. ...Respondents

Mr Balasaheb Deshmukh i/b Mr U.P. Warunjikar for Petitioners.

None for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 25TH SEPTEMBER 2006.

P.C. :-

1. These notices of motion have been taken out by the petitioners for restoration of arbitration petition which has been dismissed for non-removal of office objections. Though these notices of motion were taken out in the month of August 2006, till date the respondents have not been served. Except for saying that it is his mistake, the learned counsel appearing for petitioners does not give any reason why the respondents have not been served. The petition which has been dismissed for non-removal of office objections is a petition filed under section 34 of the Arbitration and conciliation Act 1996. In terms of provisions of section 34 of the said Act, filing of the petition challenging an award itself operates as stay to conversion of the award into a decree and therefore, the intention of the Legislature is clear that the Legislature expects the petitioner who wants to challenge the award to be diligent. Therefore, if the petitioners wanted to have the petition restored, it was their duty to serve the other side. The petition which has been dismissed was filed on 17th November 2005. There were objections raised by the Registry, but the objections were not removed. The reasons that have been given by the learned counsel for not removing objections

are all vague. It is said that the Clerk of the Advocate was changed, no details are given when he was changed. It is stated that the office objections could not be removed because the Court was in Vacation. It is not explained why objections were not removed during Vacation though it is well known that the Office of this Court continues to work during Vacation. Taking overall view of the matter therefore, it is clear that the petitioners have been absolutely negligent in prosecuting the petition. Showing any indulgence to the petitioners will defeat the ends of justice. Notices of motion are therefore disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.